THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment Delivered on : 21.04.2007

\+ **WP(C) 14979/2006**

S.K. BANDYOPADHYAY ...Petitioner

- versus -

THE REGISTRAR, SUPREME COURT & ANR ...Respondent

Advocates who appeared in this case:
For the Petitioner : Petitioner in person.
For the Respondents : Mr Mohan Parasaran (ASG) with Mr Vineet Malhotra, Mr Chetan Chawla and Mr Gaurav Dhingra.

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J (ORAL)

1. This case relates to the allotment of a portion of a chamber in the Old Lawyers Chambers Block in the Supreme Court premises. The petitioner was occupying a half portion of the chamber No. 28 in the said Old Lawyers Chambers Block as he was an assistant of the allottee Shri P.K. Mukherjee. There is no doubt that the petitioner has been occupying this chamber for more than 30 years. However, there is also no doubt that the petitioner was occupying this chamber not in his own

right but because he was associated with Shri P.K. Mukherjee. The position now is that Shri Mukherjee, who is now about 86 years of age, has left his practice and has retired at Calcutta. He is no longer interested in continuing his practice and for that reason he is no longer interested in retaining possession of the portion of chamber No.28 which had been allotted to him.

2. The letter dated 26.10.2005, which is annexure P-3 to the petition, is the bone of contention in this petition. The contents of the letter are as under:

> "To
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> The Deputy Registrar (Administration)
> Supreme Court of India,
> New Delhi. 110001.
>
> In Re: Chamber No.28 (Western Half)
>
> Sir,
>
> With ref. to your letter dated 10.09.2005 received by me at Calcutta recently, I have to submit that for about last 10 years, on account of my old age-85 years, I am not residing at Delhi and come to Delhi occasionally. I have no work pending in Supreme Court. I also do not go to any High Courts at Calcutta or elsewhere. I am not keeping good health.
>
> I have no income from court work and am living on contribution from my son and other relatives.
>
> The Chamber was being used by my assistant Shri Shyamal Banjerjee, Advocte and my erstwhile Clerk. If Shri S Banerjee pays the arrears, the chamber may be allotted to him for which I have no objection. Otherwise you are at liberty to take steps to recover possession of the chamber portion allotted to me.
>
> In the circumstances, kindly exempt me from any arrears of chamber-rent or Electrical charges, which I cannot pay.

Yours faithfully,

(P.K. MUKHERJEE)
Advocate,
B-85, Neeti Bagh.
New Delhi."

3. According to the petitioner this letter clearly indicates that Shri P.K. Mukherjee has no objection to the portion of chamber No.28 being used by the petitioner provided he pays the arrears. According to the petitioner he has paid all the arrears and there is nothing due till date and if anything is due, he is ready and willing to pay the same. He submits that this letter cannot be construed as a surrender of the portion allotted to Shri P.K. Mukherjee and the letter should be regarded as a "no objection" from Shri Mukherjee.

4. On the other hand, it has been contended on behalf of the respondents that annexure P-3 clearly indicates that Shri P.K. Mukherjee has retired and is no longer a practicing advocate. It is further contended that the said letter dated 26.10.2005 is also indicative of the fact that Shri P.K. Mukherjee is no longer interested in retaining the said portion allotted to him for his use. This is clearly discernible from the use of the expression *"..... otherwise you are at liberty to take steps to recover the possession of the chamber portion allotted to me.*"

5. It was also contended on behalf of the respondents that there is no provision of transferring an allotment to a nominee by the original allottee during his life time.

6. On a pointed question being put to the petitioner as to under which rule is he claiming allotment of the portion of the chamber which was allotted to Shri Mukherjee, the only reference that the petitioner has come up with is to Rule 7B of the Allotment of Lawyers' Chambers Rules (as amended upto 15.05.2005). The said Rule 7B reads as under:

> "In case of death of an allottee of a chamber his son/daughter/spouse, if an advocate, may be allotted the said portion of the chamber if the Allotment Committee is satisfied that such person is practising in the Supreme Court. However, if the single allottee dies, his son/daughter/spouse, if an advocate, may be allotted only one half of the chamber and not the whole."

A plain reading of the aforesaid rule 7B clearly indicates that this would not be applicable to the facts of the present case inasmuch as Shri Mukherjee is alive and it is not a case of an allotment occasioned by the death of an allottee of a chamber. There is no other provision which could be pointed out by the petitioner which could help him in any way in advancing his case.

7. It may be pointed out that an affidavit of Dr Pranab Kumar Mukherjee, who is the son of Shri P.K. Mukherjee (advocate), has been handed over on behalf of the respondents and the same is taken on record. The affidavit of Dr Pranab Kumar Mukherjee is dated 26.03.2007 and it clearly indicates that the letter dated 26.10.2005 (the said annexure P-3) was signed by Shri P.K. Mukherjee (advocate). It is also stated in the affidavit that the deponent identified his father's signature on the letter and that the same was sent to him by his father from Calcutta which he had personally delivered

to the Secretary, Supreme Court Bar Association who, in turn, delivered the same to the Supreme Court Registry.

8. A controversy is sought to be raised by the petitioner that the other letter dated 20.02.2006 referred to in the affidavit is a forged letter and is not signed by Mr P.K. Mukherjee (advocate). The affidavit is given by Dr Pranab Kumar Mukherjee, who is the son of Shri P.K. Mukherjee, and it is open to the petitioner, if he feels that a false affidavit has been given, to initiate appropriate proceedings therefor. However, insofar as the question arising in this case is concerned this would not have any bearing inasmuch as the letter (annexure P-3) is relied upon by the petitioner himself and that letter itself indicates that Shri P.K. Mukherjee has no intention of continuing his practice. He has also indicated that he has no intention in paying the dues of the chamber. There is no provision under the Allotment of Lawyers Chambers Rules for accepting any payment from any person other than the allottee. Any payments accepted prior to the issuance of the letter dated 26.10.2005 which may have been made by the petitioner would obviously be regarded as payments made on behalf of the allottee. Pursuant to the letter dated 26.10.2005 any payment that could be made by the petitioner would have to be on his own standing and not on behalf of the allottee Shri P.K. Mukherjee. The letter dated 26.10.2005 clearly indicates that Shri P.K. Mukherjee does not intend to continue his practice nor does he intend to occupy the portion of the chamber allotted to him nor does he intend to make any payment for such occupation. In the light of these facts, it would not be inappropriate for the Chamber Allotment Committee to deem the portion of the chamber allotted to Shri P.K.

Mukherjee as having been surrendered / or rendered vacant for re-allotment as per the Rules.

9. This writ petition is dismissed. Whatever articles belonging to the petitioner which still remain in the said portion of the chamber shall be returned to the petitioner within a week.

BADAR DURREZ AHMED
(JUDGE)

April 21, 2007
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